

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

JODI R. HEINE,

Plaintiff,

v.

Case No. 18-cv-1457-pp

NANCY A. BERRYHILL,

Defendant.

**ORDER GRANTING MOTION FOR LEAVE TO PROCEED WITHOUT
PREPAYMENT OF THE FILING FEE (DKT. NO. 3)**

On September 18, 2018, the plaintiff filed a complaint seeking judicial review of a final administrative decision denying her claim for disability insurance benefits under the Social Security Act. Dkt. No. 1. The plaintiff also filed a motion for leave to proceed without prepayment of the filing fee. Dkt. No. 3.

To allow the plaintiff to proceed without paying the filing fee, the court first must decide whether the plaintiff has the ability to pay the filing fee, and if not, it must determine whether the lawsuit is frivolous. 28 U.S.C. §§1915(a) and 1915(e)(2)(B)(i).

Based on the facts in the plaintiff's affidavit, the court concludes that she does not have the ability to pay the filing fee. The plaintiff's request indicates that she is not employed, not married and has no dependents. Dkt. No. 3 at 1. She lists her income as \$100 per month, and she states that the source of that

income is her parents. Id. at 2. The plaintiff reports grocery expenses of \$194 per months, which she says are covered by her electronic benefits transfer card, and medical expenses, which she says are covered by Badger Care. Id. She reports that she spends the \$100 per month she receives from her parents on “gas, clothes, toiletries, misc.” Id. at 3. The plaintiff owns a 2011 Ford Fusion worth approximately \$4,900, but has no money in a checking, savings or similar account. Id. She owns one share in Ford Motor Company, which she values at \$10.00. Id. at 4. The court concludes from this information that the plaintiff has demonstrated that she cannot pay the \$350 filing fee and \$50 administrative fee.

The next step is to determine whether the case is frivolous. A case is frivolous if there is no arguable basis for relief either in law or in fact. Denton v. Hernandez, 504 U.S. 25, 31 (1992) (quoting Nietzke v. Williams, 490 U.S. 319, 325 (1989); Casteel v. Pieschek, 3 Fed. 1050, 1056 (7th Cir. 1993)). A person may obtain district court review of a final decision of the Commissioner of Social Security. 42 U.S.C. §405(g). The district court must uphold the Commissioner’s final decision as long as the Commissioner used the correct legal standards and the decision is supported by substantial evidence. See Roddy v. Astrue, 705 F.3d 631, 636 (7th Cir. 2013).

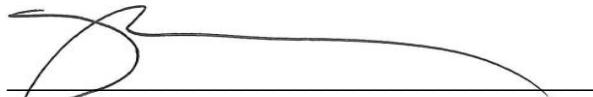
The plaintiff’s complaint states that she is disabled and that the conclusions and findings of fact underlying the defendant’s decision to deny benefits to the plaintiff are not supported by substantial evidence and are contrary to federal laws and regulations. Dkt. No. 1 at 2. At this early stage in

the case, and based on the information in the plaintiff's complaint, the court concludes that there may be a basis in law or in fact for the plaintiff's appeal of the Commissioner's decision, and that the appeal may have merit, as defined by 28 U.S.C. §1915(e)(2)(B)(i).

The court **GRANTS** the plaintiff's motion for leave to proceed without paying the filing fee. Dkt. No. 3.

Dated in Milwaukee, Wisconsin this 2nd day of October, 2018.

BY THE COURT:

A handwritten signature in dark ink, appearing to be 'P. Pepper', written over a horizontal line.

HON. PAMELA PEPPER
United States District Judge